



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,911	04/15/2004	Karl-Heinz Pfau	REP-0022-P	7616

7590 03/22/2005

CONTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002

EXAMINER

TORRES, MELANIE

ART UNIT	PAPER NUMBER
----------	--------------

3683

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,911

Applicant(s)

PFAU ET AL.

Examiner

Melanie Torres

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8-10, 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by DE317362.

Re claims 1-6, 8-10, 14 and 16, DE317362 discloses a spring suspension mat, for the cushioning of all types of seats, beds or chairs, said spring suspension mat having spring members (6), which are disposed in a first direction adjacent each other substantially parallel to a surface which is useable by a user, with a plurality of spring parts (4) which are raised transversely relative to the useable surface and form with the spring members one-piece portions of the spring members and are formed from these latter, wherein the spring parts (4) are, deformable individually, independently of each other in a resilient manner also relative to the rest of the spring member, are interconnected via connecting means (2', 3) transversely relative to their first direction substantially parallel to the surface for operative connection, wherein the spring parts (4) have at least in places such a small bending radius that the spring parts, when there is a resilient deformation, where necessary, are reducible up to approximately the material strength of the spring parts, then being in the folded-together condition, in a loading direction transversely relative to the useable surface.

Art Unit: 3683

3. Claims 1, 2, 5-8, 10-12, 13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Heerklotz.

Re claims 1, 2, 5-8, 10-12, 13, and 16, Heerklotz discloses a spring suspension mat, for the cushioning of all types of seats, beds or chairs, said spring suspension mat having spring members (lower 2'''), which are disposed in a first direction adjacent each other substantially parallel to a surface which is useable by a user, with a plurality of spring parts (upper 2''') which are raised transversely relative to the useable surface and form with the spring members one-piece portions of the spring members and are formed from these latter, wherein the spring parts are, deformable individually, independently of each other in a resilient manner also relative to the rest of the spring member, are interconnected via connecting means (5) transversely relative to their first direction substantially parallel to the surface for operative connection, wherein the spring parts have at least in places such a small bending radius that the spring parts, when there is a resilient deformation, where necessary, are reducible up to approximately the material strength of the spring parts, then being in the folded-together condition, in a loading direction transversely relative to the useable surface. (Figure 5)

Re claim 11, Heerklotz teaches wherein the suspension mat is produced from plastics. However, Heerklotz does not teach wherein the mat is produced by means of injection molding or deep-drawing. This claim is interpreted by the examiner to be a product-by-process. Product-by-process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE317362.

Re claim 15, DE317362 does not teach wherein the overall height of the spring suspension mat is between 8 and 20 mm. It would have been an obvious matter of design choice to modify DE317362 to have an overall height between 8 and 20 mm since applicant has not disclosed that having the height solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well at a variety of different heights.

Response to Arguments

6. Applicant's arguments filed December 29, 2004 have been fully considered but they are not persuasive.

Regarding the Information Disclosure Statement filed April 15, 2004, the examiner has enclosed an initialed IDS acknowledging receipt of the missing references noted in the previous office action.

Applicant argues that DE 317362 does not teach “one-piece portions of the spring members” as recited in claim 1 and wherein the spring part is a separate element from the spring member and not integral. Though the term “integral” does not appear in the claim, it is what is argued by applicant. It has been held that the term “integral” is sufficiently broad to embrace constructions united by means as fastening and welding (In re Hotte, 177 USPQ 326, 328 (CCPA 1973). Further, see MPEP 2144.04 V(B.).

Applicant argues wherein DE 318362 does not teach wherein the spring parts have a small bending radius such that when loaded in a direction transversely relative to the usable surface, the spring parts are resiliently deformable and are reducible up to approximately the material strength of the spring parts and are placed in a folded-together condition. This argument is not persuasive. There is no suggestion which would indicate that when the spring is loaded in a transverse direction that it would not operate as claimed. Although the figures may illustrate a different deformation, it does not preclude the deformation of the spring parts as claimed. Applicant further argues specifically that the “bending radius” is not taught by the prior art. The examiner disagrees and it is clear that in figures 1 and 2, a bending radius is shown between parts 4 and 5. Applicant appears to argue the degree to which the springs are “folded-together,” however the claim language is not limiting in the degree in which the springs are “folded-together.”

Applicant argues that Heerklotz does not teach wherein the spring parts are deformable "individually." Despite the fact that the spring parts are connected, it is possible for one spring part to be deformable without affecting other spring parts. Therefore, this argument is not persuasive.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

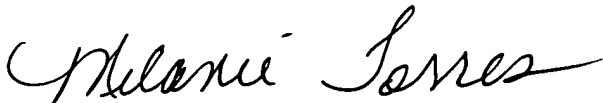
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Torres whose telephone number is (703)305-0293. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

Art Unit: 3683

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703)308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Melanie Torres". The signature is written in a cursive, flowing style.

MT
March 16, 2005